



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,084	07/18/2001	Steven C. Boyle	CR-1	2821

23933 7590 01/04/2005

STUART T AUVINEN
429 26TH AVENUE
SANTA CRUZ, CA 95062-5319

EXAMINER

DADA, BEEMNET W

ART UNIT	PAPER NUMBER
----------	--------------

2135

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/682,084	Applicant(s) BOYLE ET AL.	
	Examiner Beemnet W Dada	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in reply to a response to an office action filed on August 4, 2004.

Claims 1-20 are pending.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornelius et al, (hereinafter Cornelius), US Publication 2003/0165136, in view of Jade et al, (hereinafter Jade), US Patent 5,944,823, and further in view of Berg et al (hereinafter Berg), US Patent 6,674,713.

4. The rejection is being applied for the same reason as set forth in the previous Office action, pages 2-7.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornelius US Publication 2003/0165136 in view of Berg US Patent 6,674,713 and further in view of Fan et al (hereinafter Fan), US Patent 6,219,706.

6. The rejection is being applied for the same reason as set forth in the previous Office action, Pages 8-9.

7. Claim 8-9 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jade US Patent 5,944,823 in view of Cornelius, US Publication 2003/0165136.

8. The rejection is being applied for the same reason as set forth in the previous Office action, Pages 9-17.

9. Claims 10-11 are rejected under 35 U.S.C 103(a) as being unpatentable over Jade US Patent 5,944,823 in view of Cornelius, US Publication 2003/0165136 and further in view of Berg, US Patent 6,674,713.

10. The rejection is being applied for the same reason as set forth in the previous Office action, Pages 17-19.

11. Claims 19-20 are rejected as being unpatentable over Cornelius, US Publication 2003/0165136 in view of Jade, US Patent 5,944,823.

12. The rejection is being applied for the same reason as set forth in the previous Office action, Pages 19-21.

Response to Arguments

13. Applicant's arguments filed August 4, 2004 have been fully considered but they are not persuasive.

14. Applicant argues that Jade teaches a "special tunneling application" opens connection on behalf of trusted applications, and Jade's "Control connection" to open firewall cannot be

Art Unit: 2135

used for VOIP data. Applicant further argues that the connection used to update the table of "trusted sockets" and open firewall window is different from the connection established for these "trusted applications". Thus two very different connections are used by Jade, and claims recite same connection for both opening firewall and sending user data. The examiner respectfully disagrees.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Regarding claims 1-7 and 19-20, Cornelius teaches opening a firewall window for VOIP data (see Cornelius, abstract). Cornelius further teaches transmitting incoming and outgoing audio traffic through a single hole in the firewall (see Cornelius, paragraph 0032). The examiner cited Jade to support his assertion that it is well known to open a window in firewall through a transmission of packets (see for example, Jade, col 4, lines 25-39), therefore Cornelius can be modified by opening the firewall by a transmission of packets. Regarding claims 8-18, the claimed invention does not recite using VOIP (Voice over IP data).

15. Applicant argues that Cornelius teaches Manual Firewall opening, and cannot be combined with Jade, proposed combination destroys purpose of Cornelius reference and teachings of Cornelius teach away from the proposed modification. Examiner respectfully disagrees.

The opening of a window in a firewall through a transmission of packets is well known in the art as suggested by Jade. Jade discloses opening a hole in the firewall through a packet

Art Unit: 2135

transmission (Jade, col. 4, lines 25-39), and Cornelius can be modified by opening the firewall by a transmission of packets, which provides an advantage of minimal input from the user.

16. Applicant argues that Berg's Null segments test existing connection, do not establish new connection. Examiner respectfully disagrees.

The teachings of opening firewall using a firewall-opening packet is taught by Jade as discussed above. Null packets are used for administrative purpose of communications, which require minimal bandwidth of communication link, and are used in situations where no user data is required (see Berg, col 22, lines 25-44). Berg further discloses means of communication involving the use of Null packets (col 18, lines 24-33 and column 18, lines 42-48). One of ordinary skill in the art at the time of the applicant's invention would have been able to use such a null packet in the Cornelius-Jade combination to open a firewall.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2135

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beemnet W Dada whose telephone number is (571) 272-3847. The examiner can normally be reached on Monday - Friday (9:00 am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Beemnet Dada

December 10, 2004


KIM VU
SUPERVISORY PATENT
TECHNOLOGY CENTER